

tive Service under those sections during any fiscal year to exceed the annual rate payable for positions at level I of the Executive Schedule in effect at the end of such year.

(As amended Pub.L. 99-145, Title XIII, § 1302(a)(3), Nov. 8, 1985, 99 Stat. 738; Pub.L. 99-661, § 1343(a)(9), Nov. 14, 1986, 100 Stat. 3992.)

1985 Amendment. Pub.L. 99-145, § 1302(a)(3), substituted "sections 1601 and 1602 of this title" for "chapter" wherever appearing.

and Adm. News, p. 472. See, also, Pub.L. 99-661, 1986 U.S. Code Cong. and Adm. News, p. 6413.

Legislative History. For legislative history and purpose of Pub.L. 99-145, 1985 U.S. Code Cong.

#### § 1604. Civilian personnel management

(a) The Secretary of Defense may, without regard to the provisions of any other law relating to the number, classification, or compensation of employees—

(1) establish such positions for civilian officers and employees in the Defense Intelligence Agency as may be necessary to carry out the functions of such Agency;

(2) appoint individuals to such positions; and

(3) fix the compensation of such individuals for service in such positions.

(b) The Secretary of Defense shall, subject to subsection (c), fix the rates of basic pay for positions established under subsection (a) in relation to the rates of basic pay provided in the General Schedule under section 5332 of title 5 for positions subject to such Schedule which have corresponding levels of duties and responsibilities. Except in the case of an officer or employee of the Defense Intelligence Agency serving as a member of the Defense Intelligence Senior Executive Service, no officer or employee of the Defense Intelligence Agency may be paid basic compensation at a rate in excess of the highest rate of basic pay contained in such General Schedule.

(c) The Secretary of Defense is authorized, consistent with section 5341 of title 5, to adopt such provisions of such title as provide for prevailing rate systems of basic pay and to apply such provisions to positions in or under which the Defense Intelligence Agency may employ individuals described by section 5342(a)(2)(A) of such title.

(d) In addition to the basic compensation payable under subsection (b), officers and employees of the Defense Intelligence Agency who are citizens or nationals of the United States and who are stationed outside the continental United States or in Alaska may be paid compensation, in accordance with regulations prescribed by the Secretary of Defense, not in excess of an allowance authorized to be paid by section 5941(a) of title 5 for employees whose rates of basic pay are fixed by statute. Such allowances shall be based on—

(1) living costs substantially higher than in the District of Columbia;

(2) conditions of environment which differ substantially from conditions of environment in the continental United States and warrant an allowance as a recruitment incentive; or

(3) both of the factors described in paragraphs (1) and (2).

(e)(1) Notwithstanding any other provision of law, the Secretary of Defense may, during fiscal years 1986 and 1987, terminate the employment of any civilian officer or employee of the Defense Intelligence Agency whenever he considers that action to be in the interests of the United States and he determines that the procedures prescribed in other provisions of law that authorize the termination of the employment of such officer or employee cannot be invoked in a manner consistent with the national security. The decisions of the Secretary under this paragraph are final and may not be appealed or reviewed outside the Department of Defense. The Secretary of Defense shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever this termination authority is exercised.

(2) Any termination of employment under this subsection shall not affect the right of the officer or employee involved to seek or accept employment with any other department or agency of the United States if he is declared eligible for such employment by the Director of the Office of Personnel Management.

(3) The Secretary of Defense may delegate authority under this subsection only to the Deputy Secretary of Defense or the Director of the Defense Intelligence Agency or both. An action to terminate any civilian officer or employee by either such officer shall be appealable to the Secretary of Defense.

(Added Pub.L. 98-618, Title V, § 501(a), Nov. 8, 1984, 98 Stat. 3301, and amended Pub.L. 99-661, Title V, § 502, Oct. 27, 1986, 100 Stat. 3198.)

**Legislative History.** For legislative history and purpose of Pub.L. 99-569, see 1986 U.S. Code Cong. and Adm. News, p. 5327.

#### § 1605. Benefits for certain employees of the Defense Intelligence Agency

(a) The Secretary of Defense may provide to civilian personnel of the Department of Defense who are United States nationals, who are assigned to Defense Attaché Offices and Defense Intelligence Agency Liaison Offices outside the United States, and who are designated by the Secretary of Defense for the purposes of this subsection, allowances and benefits comparable to those provided by the Secretary of State to officers and employees of the Foreign Service under paragraphs (2), (3), (4), (5), (6), (7), (8), and (13) of section 901 and sections 705 and 903 of the Foreign Service Act of 1980 (22 U.S.C. 4081(2), (3), (4), (5), (6), (7), (8), and (13), 4025, 4083) and under section 5924(4) of title 5. The Secretary may also provide to any such civilian personnel who are subject to chapter 84 of title 5, special retirement accrual benefits in the same manner provided for certain officers and employees of the Central Intelligence Agency in section 303 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note).

(b) The authority of the Secretary of Defense to make payments under subsection (a) is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

(c) Regulations issued pursuant to subsection (a) shall be submitted to the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Armed Services and the Select Committee on Intelligence of the Senate before such regulations take effect.

(Added Pub.L. 98-215, Title V, § 501(a), Dec. 9, 1983, 97 Stat. 1478, § 192, redesignated § 1605, and amended Pub.L. 99-145, Title XIII, § 1302(a)(1), Nov. 8, 1985, 99 Stat. 737; Pub.L. 99-335, Title V, § 507(b), June 6, 1986, 100 Stat. 628; Pub.L. 99-569, Title V, § 501, Nov. 27, 1986, 100 Stat. 3198.)

**References in Text.** Sections 901(2), (3), (4), (6), (7), (8), and (13), 705, and 903 of the Foreign Service Act of 1980 [Pub.L. 96-465], referred to in subsec. (a), are set out, respectively, as sections 4081(2), (3), (4), (6), (7), (8), and (13), 4025 and 4083 of Title 22, Foreign Relations and Intercourse.

Section 303 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, referred to in subsec. (a), is section 303 of Pub.L. 88-643, Oct. 13, 1964, 78 Stat. 1043, which is set out as a note under section 403 of Title 50, War and National Defense.

**1986 Amendment.** Subsec. (a). Pub.L. 99-335 inserted provision authorizing the Secretary to provide to any civilian personnel subject to chapter 84 of Title 5 special accrual benefits in the same manner provided for certain officers and employees of the Central Intelligence Agency in section 303 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees.

**1985 Amendment.** Subsec. (a). Pub.L. 99-145, § 1302(a)(1)(A), (B), substituted “, 4025, 4083) and under section 5924(4) of title 5,” for “, 22 U.S.C. 4083; 5 U.S.C. 5924(4))”, and struck out

references to the Director of the Defense Intelligence Agency; military personnel, section 2308 of the Foreign Service Act of 1980, and 22 U.S.C. 4025.

Subsec. (b). Pub.L. 99-145, § 1302(a)(1)(A), struck out provisions relating to authority of the Director of the Defense Intelligence Agency.

Subsec. (c). Pub.L. 99-145, § 1302(a)(1)(C), struck out subsec. (c), relating to issuance of regulations pursuant to subsec. (a) of this section. Former subsec. (d) was redesignated (c).

Subsec. (d). Pub.L. 99-145, § 1302(a)(1)(C), redesignated subsec. (d) as (c).

**Effective Date of 1986 Amendment.** Amendment by Pub.L. 99-335 effective Jan. 1, 1987, see section 702(a) of Pub.L. 99-335, set out as a note under 8401 of Title 5, Government Organization and Employees.

**Legislative History.** For legislative history and purpose of Pub.L. 99-145, see 1985 U.S. Code Cong. and Adm. News, p. 472. See, also, Pub.L. 99-569, 1986 U.S. Code Cong. and Adm. News, p. 5327.